

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JASON S. RANKIN,

Plaintiff,

v.

ORDER

13-cv-66-wmc

SCOTT HORNE,

Defendant.

In response to this court's January 28, 2013, order, plaintiff Jason Rankin has submitted an inmate account statement so that I can determine whether he qualifies for indigent status and, if he does, calculate an initial partial payment of the \$350 fee for filing this case. In determining whether a prisoner litigant qualifies for indigent status this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, an inmate requesting leave to proceed *in forma pauperis* must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

From the inmate account statement plaintiff has submitted, I find that he has had one deposit of \$44.00. Based on the above formula, I calculate plaintiff's initial partial payment to be \$1.47. Plaintiff should show a copy of this order to jail officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

Plaintiff is reminded that payment of the initial partial filing fee is just the first step in obtaining leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. After he sends in the payment, the court will review his complaint to decide whether to grant plaintiff leave to proceed on it. Leave will not be granted if the action must be dismissed as malicious or legally "frivolous," a term that means that the complaint does not allege a claim of any kind. Leave can

be denied also if the complaint does not state a claim on which plaintiff could obtain relief under the law or if plaintiff is asking for money from a defendant who is legally protected from having to pay money in his case.

ORDER

IT IS ORDERED that plaintiff Jason Rankin is assessed \$1.47 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$1.47 on or before March 14, 2013. If, by March 14, 2013, plaintiff fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a later date.

Entered this 21st day of February, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge